BUSINESS OF THE HOUSE.

President: Before the legislative business commences I desire to make one observation. I have been asked to give some more time—one more non-official day—for the consideration of a non-official Bill which is on the tapis. It is entirely left to this House to decide whether the work of legislation now before the House, namely, the Co-operative Societies Bill and the Trade Unions Bill, will be finished to-day or not. If by chance these Bills are finished to-day, tomorrow will be free, and it will be possible for the House to take up non-official business to-morrow, if the House does not want a holiday. I am perfectly willing to accommodate the non-official members in that respect. If, on the other hand, they think that one day's discussion will be sufficient for the non-official Bill in question, then Thursday may be devoted for the purpose. It must be distinctly understood that while as President I am perfectly willing to give the utmost latitude to the discussion of that Bill, it does not mean that Government has formed a final opinion on the Bill. I do not wish to say more than that at the present moment.

THE TRAVANCORE CO OPERATIVE SOCIETIES BILL.—(*contd.*)

Clause 15.

Mr. N. Ramakrishna Pillai (*Vaikam* cum *Shertalai*): My amendment is to delete clause 15. The matter covered by clause 15 is one which can be provided for in the bye-laws. It is not necessary to deal with the change of name of a society in the Regulation itself. I therefore move that the clause may be deleted.

The amendment fell through for want of seconding.

The question that clause 15 do stand part of the Bill was put to vote and carried.

The clause was added to the Bill.

Clause 16.

Mr. N. Ramakrishna Pillai: My amendment is to delete clause 16. This clause provides for the amalgamation and division of societies. My submission is that the advantages of this provision are not commensurate with the complications that it will create. Again no necessity has been made out for a provision of this character. For these reasons, I move that this provision may be deleted.

Mr. K. Madhavan Pillai (*Trivandrum*): I second it.

Mr. M. Govinda Pillai (*Registrar of Co-operative Societies*): Sir, I oppose the amendment. The honourable member who moved the amendment said just now that no necessity had been made out for this provision. May I say that there are ever so many societies that stand in need of amalgamation? For instance, in a

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[Mr. M. Govinda Pillai,]

particular centre like Parur there are several societies which have to be amalgamated. The clause apparently looks cumbersome. As a matter of fact, I may say that it has been worked out without any difficulty in Madras. If there are too many societies in a place, it will be possible to amalgamate them, and if more societies are needed it will be possible to divide some of the most unwieldy ones. The necessity for a provision like this is keenly felt. I oppose the amendment.

The amendment was put and lost.

The question that clause 16 do stand part of the Bill was then put to vote and carried.

The clause was added to the Bill.

Clause 17.

The clause was add to the Bill.

Mr N. Ramakrishna Pillai: My amendment is to delete sub-clause (2) of clause 17. My ground is that this is a provision which should be made in the bye-laws. It is not necessary to make a provision for it in the Regulation itself.

Mr. M. N. Paramesvaran Pillai: I wish to put a question. If this clause is deleted who will work the society between the date of registration and the date of constitution of a committee by the society?

Mr. N. Ramakrishna Pillai: The registration will not take much time and the constitution of the committee can be done immediately after registration. Further, no necessity for such a provision has been made out by the Devadhar Committee.

Mr. K. Madhavan Pillai: I second it.

Mr. Kayalam Paramesvaran Pillai (*Additional Head Sirkar Vakil*): Sir, I oppose this amendment. I thought the member would be thankful to me for inserting this provision in the Bill itself rather than ask for a *carte blanche* from this House to make provision by bye-laws. I oppose the amendment.

Mr. N. Ramakrishna Pillai: My main reason for the deletion of this clause is that there is no need for a provision of this character. Such unimportant provisions are better made in the bye-laws of every society.

The amendment was put and lost.

The question that clause 17 do stand part of the Bill was then put and carried. The clause was added to the Bill.

Clause 18.

Mr. N. Ramakrishna Pillai: My amendment is:

Delete the words "not disqualified for such appointment under any rules prescribed in that behalf" in lines 2 and 3 of sub-clause (2).

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Under sub-clause (2), a registered society which has invested any part of its funds in the shares of another society may appoint, any of its members not disqualified for such appointment to vote in the affairs of such other registered society. It is not justifiable to place restrictions upon the choice of the society in delegating a representative to another society. I think it is not right to interfere with the internal management of another society.

Mr. M. N. Paramesvaran Pillai: Is it the opinion of the member that disqualified members could be sent?

Mr. N. Ramakrishna Pillai: I did not say so.

Mr. M. N. Paramesvaran Pillai: Suppose a person has vested interests in the other society. Can he be sent?

Mr. N. Ramakrishna Pillai: The bye laws will make provision for that. The qualifications can be prescribed in the bye-laws.

Mr. M. N. Paramesvaran Pillai: If the bye-laws make provision for qualifications, does the member say that he should not be sent?

Mr. N. Ramakrishna Pillai: I do not say so. Further the expression is not very clear. I submit that this qualification is quite unnecessary.

Mr. K. Madhavan Pillai: I second the amendment.

Mr. M. Govinda Pillai: Sir, I oppose the amendment. I may in the first place invite the attention of the honourable member to the definition of the term "prescribed". "Prescribed" means prescribed by rules framed by Government. This matter is made clear in sub-clause (1) of the clause.

The necessity for a provision like this is very keenly felt. My friend has been referring to the bye-laws. As a matter of fact according to the bye-laws, the representative should be elected by the general body and not by the committee as is very frequently done. There are several instances of violation of this rule. These committees are attended by the Secretary and one or two other people, and they elect the representative delegates. This has resulted in gross mismanagement. It is to prevent such mismanagement that this sub-clause is inserted here. I therefore oppose the amendment.

The amendment was put to vote and lost.

The question that clause 18 do stand part of the Bill was then put to vote and carried.

The clause was added to the Bill.

Clause 19.

Mr. N. Ramakrishna Pillai: I move the following amendment:

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[Mr. N. Ramakrishna Pillai.]

"Delete the words "to the Society or" in line 1 of sub-clause 2 : b".)

I object to the clause in the present Bill on the ground that transfer of share cannot be made to a society. It is not open either to a society or corporation to transfer its full share of its own accord. Hence I move the amendment Though there is a similar provision in another clause of the present Bill such a qualification is not necessary in the present clause. Therefore I move my amendment for the acceptance of the House.

Mr. K. Madhavan Pillai: I second it.

Mr. Kayalam Parameswaran Pillai: Mr. Ramakrishna Pillai said that there is a similar provision elsewhere in the Bill. That is not opposed. ' Sir, I oppose the amendment of Mr. Ramakrishna Pillai.

The amendment was put to vote and lost.

The question that clause 19 do stand part of the Bill was then put to vote and carried.

The clause was added to the Bill.

Clauses 20 and 21.

The question that clauses 20 and 21 do stand part of the Bill was put to vote and carried.

The clauses were added to the Bill.

Clause 22.

Mr. N. Ramakrishna Pillai: I move the following amendment :

Substitute for the following :

" (1) The Registrar shall audit or cause to be audited by some person authorised every registered society once at least in every year. No charge shall be made in respect of any audit made under this Section.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the society.

(3) The registrar or any person authorised by general or special order in writing in this behalf by the Registrar shall at all times have access to all the books, accounts, papers and securities of a society, and every office of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection may require."

This is one of the most important provisions of the Bill. It refers to the audit of a society. Now audit is being conducted free. According to the Bill, for purposes of audit the society is to pay for it. I take serious objection to the departure. The provision contained in the old Regulation, *viz.*, that audit should be free has now been taken away. This is an innovation which is not found either in the Madras or the Bombay Acts. Under the conditions

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prevailing in this country it is very necessary that audit should be continued free. The Devadhar Committee also says that to meet the increased cost of the department, a fee should not be imposed for the audit of societies.

Mr. M. Govinda Pillai: May I know whether audit is free in Madras and Bombay?

Mr. N. Ramakrishna Pillai: It is not mentioned there specifically that audit is free. But that is no reason why the audit here should not be free. The report of the Committee is to the effect that to meet the increased cost of the department a fee should not be imposed for audit. Most of the co-operative societies are very poor and to impose an additional tax for the purpose of audit will work hardship upon them.

Mr. Kayalam Paramesvaran Pillai: May I know from the member whether there is any society now that is able to pay for the audit? I am putting this question because the member said that most of the societies are poor.

Mr. N. Ramakrishna Pillai: In the case of most societies there is practically no audit by the department. The Devadhar Committee has also said about it.

Mr. M. N. Paramesvaran Pillai: May I know from the member whether the present clause says that the society should pay for the audit?

Mr. N. Ramakrishna Pillai: Unless a provision is specifically made that audit is free, it will not be done accordingly. It is a concession made by Government and therefore a similar provision existed in the old Regulation.

Mr. M. N. Paramesvaran Pillai: Is not a duty caused on the Registrar or his nominee to audit the accounts of a society?

Mr. N Ramakrishna Pillai: Yes. According to the present provision in the Bill the society has to pay for audit. Originally it was not so. That was a concession made by Government. Unless a provision is made to the effect that audit should be free, I am sure it will not be done accordingly. From the report of the Committee also no case has been made out for a departure from the old practice in respect of audit. There is another aspect. Sub-clause 4 says as follows:—

> "The Registrar and every other person appointed to audit the accounts of a society shall have power when necessary —
>
> (i) to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give valuable information in regard to any transaction of the society or the management of its affairs, or"

According to this provision, the auditor is given power to summon any person connected with the society. This is a very

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[Mr. N. Ramakrishna Pillai.]

serious inroad on the working of the co-operative movement. There is no necessity why an auditor should be given so much power for examination of accounts of a society. We have not also heard any complaint that audit has not been satisfactorily conducted, because of the fact that the auditor was not given such summary powers. Under these circumstances, there is no necessity to arm the auditor with such extraordinary powers. Hence I move my amendment.

Mr. K. P. Nilakanta Pillai : (*Chirayinkil* cum *Nedumangad*) : I second the amendment. Let us see the serious consequences that may follow if this amendment is not accepted. I explained yesterday that it may not be possible for any member with an amount of self respect, hereafter to serve in a non-official committee, if the clause is accepted as it is in the present Bill Sir, this clause has to be read along with clause 60 and 63 of of the Bill. They are as follows : —

60. "It shall be an offence under this Regulation if—

(*a*) a registered society or an officer or member thereof. in contravention of the provisions of this Regulation, wilfully makes a false return or furnishes false information or wilfully neglects or omits to call a general meeting or special general meeting of the society, or

(*b*) any person wilfully or without any reasonable excuse disobeys any summons. requisition or lawful written order issued under ths provisions of this Regulation or does not furnish any information lawfully required from him by a person authorised in this behalf under the provisions of this Regulation.

63. Any registered society or or any officer or member thereof or any other person guilty of an offence under this Regulation for which no punishment is expressly provided herein shall be punishable with fine not exceeding fifty rupees."

Clause 22, sub-clause 4 (1) will entitle the Registrar or the Assistant Registrar, or his nominee, to appoint any person to audit the accounts of a particular society and that auditor can summon any officebearer of a society for the purpose of examining minutely its accounts. It is probable that the information may be well founded or ill founded. But the consequences are very serious, when read along with clause 60 and 63. So far as I can understand, there is very great difficulty in pioneering this Bill through this House. Of course, the Devadhar Committee was appointed to report on particular matters referred to that committee. It was far from the knowledge of the primary societies in Travancore that a Bill of the kind is to be appended with that report and that it will be brought before the legislature and brought into law. Even the members of primary societies have not deposed before the

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Devadhar Committee. But shomehow or other the Bill has reached such a stage. Is there any single primary society whose opinion has been invited by the Registrar about the provisions in the Bill? On the other hand, many Conferences have met and passed resolutions to the effect that these provisions if adopted will prove very objectionable and threaten the existence of the societies. I am speaking this from the point of view of primary societies.

Mr. M. N. Paramesvaran Pillai: May I know if this amendment is accepted whether it will not be inconsistent with sub-clause (*f*) of clause 74?

Mr. K. P. Nilakanta Pillai: I do not quite follow the member. My point is there are many honourable non-official members who are helping the co-operative movement to a large extent. For example, in the Central Co-operative Bank, there is Rao Bahadur K. Narayanan Pandalai, the President of the Bank, who is a retired Chief Secretary to Government. Then, there is Dr. Madhavan Pillai, retired Sanitary Commissioner of the State. Mr. N. Ramakrishna Pillai is another member. Rao Sahib T. Padmanabha Rao and Mr. E. Subramonia Aiyar were members, who are helping the society in one capacity or another. All these gentlemen form a non-official committee. Under this clause, these members can be summoned by a petty officer of the Co-operative Department for the purpose of examining them. These people will have to answer the various questions of the auditor. It passes beyond my comprehension why such men should be summoned and examined for the purpose of conducting audit of the societies. Will any man having some self respect go and aid a non-official movement of this character if such conditions are imposed? That is the reason why I drew the attention of the members to clauses 60 and 63. Even the refusal to accept summons to appear before these petty officers is penalised under clause 63, and the Registrar is given supreme power even to order the prosecution of that particular member.

Mr. E.P. Varghese (*Nominated*): Suppose the summons is from a Bench Magistrate? What about the self respect of these gentlemen?

Mr. K. P. Nilakanta Pillai: I am not concerned with the individuals who may occupy certain posts. But, certainly, they are Magistrates.

Mr. M. N. Paramesvaran Pillai: Has not the Sub-Registrar got the power to summon persons as witnesses?

Mr. K. P. Nilakanta Pillai: Provided the party is prepared to meet the expense of the witness he can do it.

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Mr. P. Padmanabhan Tampi: (*Kalkulam* cum *Vilavankod*): May I know whether it is compulsory on the part of the witnesses to appear before the Sub-Registrars?

Mr. K. P. Nilakanta Pillai: No, it is not compulsory at all. All these questions are put to me without knowing that.

What I am driving at is that under this Bill, even a refusal to accept a summons will be penalised and made liable for criminal prosecution My submission is that the whole clause has been framed in such a way that it would seem that the framers of this Bill had no knowledge about the routine work of the primary societies and the relation between the officers and the managing board or the executive committee As a matter of fact, the members of the managing board have nothing to do with the actual records of the society. They meet from time to time to decide the general policy to be adopted by the primary society or the taluk bank as the case may be, and the proceedings of those meetings can be seen in the minutes book. I cannot understand why a particular officer should be invested with the power to summon anybody to examine the transactions of the society. The Secretary is there and the records are kept in the office. The auditor can have access to all these records in the office. Beyond that, I fail to understand what the Register is going to gain by an examination of a particular member. He can get absolutely no more information than what is contained in the minutes book. All the records are in the office. It would seem that the framers of the Bill have not got the knowledge about the working of the primary societies and the relation between the officers and the board members. That is my serious objection to this provision, and that was the general trend of my argument yesterday. Clause after clause proposes to belittle the importance of non-official work for the movement and even to drive respectable men from the co-operative field. That seems to be the main idea underlying many of the principles of this Bill. It is highly objectionable. To advance the co-operative movement in Travancore and for the proper working of co-operative societies and banks, I submit that experienced non-officials are absolutely necessary. The provisions of the Regulation should be framed in such a way that it would give an invitation and an incentive to respectable non officials to come into these societies. But the result of the present provision is to drive them out. No man of self-respect will be willing to serve in these societies. With these words, I support the amendment.

Mr. V. S. Arumukham Pillai: I do not exactly understand the necessity for investing the auditor with powers to summon any member of the board he wishes to produce any record. As my

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friend Mr. Nilakanta Pillai pointed out it is to prevent respectable people from taking part and co-operating in the working of the department. A reading of the clause will show that the main object of the Bill is to crush the movement instead of fostering it.

Mr. Kayalam Paramesvaran Pillai: Are respectable people afraid of giving information?

Mr. V. S. Arumukham Pillai: My learned friend does not exactly understand me. Respectable people are not afraid to give information. The question is wether it is proper to invest the auditor with powers to summon anybody he wishes. We must clearly keep in view that auditing, inspection and enquiry are the three main functions in the working of the co-operative societies. As at present the inspector or the supervisor is always the auditor. He audits the primary societies or the taluk banks and the clerk or the manager concerned produces all the records and accounts that is required and everything is done smoothly. When that is the case why for the purpose of auditing, the inspector should be invested with the power to summon any member he pleases. If he is not able to get any record, he may put in a complaint to the president of the society and make a report of it. From what I have been able to hear from the Registrar there was not a single instance in which an auditor was refused any record or voucher that he wanted. So I do not think that for mere auditing it is necessary to invest an auditor like an inspector or a supervisor to invest with such large powers. It will be keeping out respectable and true workers of co-operation. So such a provision is very dangerous. With these words, I support the amendment.

Mr. M. Govinda Pillai: I oppose the amendment. From the speeches, it will have been observed that the objections against this provision of law are based on two grounds; first, the deprivation of the present concession of free audit, and second, the apprehension that all self-respecting people of the State will be scared out of the movement. I shall very briefly deal with these two objections.

I have said that free audit has been a concession granted to societies by Government, because Government at the very inception of the movement felt the need for such a concession. Government thought that a free audit was an essential pre-requisite for the progress of the movement. But now after 20 years, Government think that the movement has developed to such an extent that some of the societies which have got decent and respectable working capital may be subjected to the levy of an audit fee. In Madras and other Provinces the audit has not been free. That concession existed only in Travancore. The Travancore Government has always been solicitous and paternal in these matters. But we have reached a

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[Mr. M. Govinda Pillai.]

stage at which it is necessary that some of the societies which are capable and competent to contribute something towards the cost of audit should do so. An apprehension has been expressed that audit fee is to be levied on all societies irrespective of their competence or capacity. Audit fee is to be levied only in respect of certain societies. Agricultural societies of the unlimited character will be completely exempt from audit fees. I may also point out to the House that, in Madras, audit fee is levied only in respect of societies whose working capital exceeds Rs. 20,000 or whose membership exceeds 500. In Mysore also, I may inform the House that a committee which was appointed recently has recommended that audit fee should be levied in respect of societies whose working capital is Rs. 5,000. I am sure the Government of Travancore will only follow the example set by Madras, and not of Mysore. The object of Government is to levy audit fees in respect of societies whose working capital exceeds Rs. 20,000, or whose membership exceeds 500.

Mr. V. S. Arumukham Pillai: If a bank employs a certified auditor, is it necessary that that bank should pay audit fee?

Mr. M. Govinda Pillai: I may inform the member that the audit statement of any auditor appointed by anybody, the president or the managing committee, cannot be accepted by the department. The responsibility of conducting the audit has been undertaken by the Government, and the department is bound under the law to conduct the audit. Unless and until an auditor appointed by the Government or by the department, as the case may be, conducts the audit the department cannot accept any other auditor.

Mr. V. S. Arumukham Pillai: May I know the necessity for levying audit fees?

Mr. M. Govinda Pillai: It is to help the Government. After all, the movement cannot function without proper audit.

Mr. S. Piraviperumal Pillai: May I know what amount Government hope to derive from the levy of audit fees?

Mr. M. Govinda Pillai: It may be a very small amount. The question does not depend upon the amount. It is a question of principle whether competent societies should not contribute towards the expenses of audit. Government have been conducting free audit for the last 20 years. The question is whether societies, which have got decent working capital and which are capable of contributing towards the expenses of audit, should not contribute towards such expenses. It is in view of that principle that Government contemplate to levy an audit fee from such societies.

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With regard to the second objection that the enforcement of this rule will scare out all self-respecting people, I have only to point out that similar rules have been in force in Bombay for the last 12 years, in Madras for 7 years, and yet the self-respecting people of those two Presidencies have offered their voluntary, gratituous services for the cause of the movement. There are not only Rao Sahibs and Rao Bahadurs but also Dewan Bahadurs and even gentlemen who have been knighted by His Majesty the King Emperor, who have contributed their time and leisure for the development of the movement.

Mr. G Narayana Aiyar : What will be the position of an auditor when he feels that an entry is suspicious and when he is conscious that that entry can be proved to be false by summoning a member of the union?

Mr. M. Govinda Pillai : It is to combat such circumstances and situations that this power is proposed to be given. Let there not be the least apprehension that this power will be abused. If that is done, there is the Government to deal with these departmental auditors and take disciplinary action against them.

Mr. K. P. Nilakanta Pillai : Is there any provision for that?

Mr. M. Govinda Pillai : When the Gevernment have undertaken the audit, it is their duty to enforce discipline and to call to order the officers who are guilty of malpractices. Sir, I was just speaking about the apprehension that this provision was likely to scare away self-respecting men. I shall not have the temerity to contend that self-respect is the monopoly of Travancore. I am sure that, in spite of this provision, self-respecting men, people who have got the love of their fellow brethren in their hearts will be willing to devote their time and leisure to advance and develop the movement; and I hope that they will come forward in larger numbers than at present.

Mr. K. P. Nilakanta Pillai : May I know whether there is a similar provision in the Bombay Act?

Mr. M. Govinda Pillai : Yes, there is.

Mr. K. P. Nilakanta Pillai : May I know which is that section?

Mr. M. Govinda Pillai : The member will please peruse the Bombay Act.

Mr. Kayalam Paramesvaran Pillai : I wish to add a few words to what the honourable member has said. Mr. Ramakrishna Pillai wanted by his amendment to substitute certain provisions in clause 22.

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[Mr. Kayalam Paramesvaran Pillai.]

Clause 22 sub-clause (2) is as follows :—

"The audit under sub-section (1) shall include an examination of overdue bebts, if any, the verification of cash balance and securities and a valuation of the assets and liabilities of the society".

Mr. Ramnkrishna Piliai's amendment is as follows :—

"The audit under sub-section (1) shall include an examination of overdue debts, if any and a valuation of the assets and liabilities of the society".

In the amendment Mr. Ramakrishna Pillai has cleverly omitted the exprassion the verification of cash balance and securities. In fact that is the real change he intends. So he wants by his amendment that the verification of cash balance should not be made upon this. I may say that very often when an inspection is conducted the cash balance of the society is often found to be missing. What Government are aiming at by the inclusion of this provision is that it must be the statutory duty of the auditor to verify the cash balance. Mr. Ramakrishna Pillai does not want this statutory duty to be put on the auditor.

Mr. K. P. Nilakanta Pillai: May I know from the member for how many times a particular society is expected to be audited by the departmental officer ?

Mr. Kayalam Paramesvaran Pillai: Ordinarily once in a year.

Mr. K. P. Nilakanta Pillai: Is it sufficient to check the cash balance which might have been used by the managing committee ?

Mr. Kayalam Paramesvaran Pillai: I can admit that it may not be sufficient but even one verification is objected to by Mr. Ramakrishna Pillai.

Mr. K. P. Nilakanta Pillai: May I know what happened in the case of misapproriation of the funds of the society of the excise employees at Trivandrum ?

Mr. Kayalam Paramesvaran Pillai: I do not know Sir. I am only concerned with this clause. Another point I want the House to note is that in clause 22 sub-clause (4) it is stated

"The Registrar and every other person appointed to audit the accounts of a society shall heve power when necessary—

(i) to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give valuable information in regard to any transaction of the society or the manage ent of its affairs, or

(ii) to require the production of any book or document relating to the affairs of the society or any cash or securities belonging to the society by the officer, agent, servant or member in possession of such book, document, cash or securities".

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From this clause it may be seen that the Registrar has to inform the person who is competent to give the information concerning the society. It is very necessary and that is what is meant by summoning him.

Mr. K. P. Nilakanta Pillai: May I know from the member what may be the nature of the information that the Registrar may get from a member so far as the tranactions of a society are concerned ?

Mr. Kayalam Paramesvaran Pillai: The member may be able to inform the Registrar whether the secretary or any other office bearer has stolen society's fund. Thatis a valuable information. Why should anybody object to this clause if it enables the Registrar to get such information.

Mr. K. P. Nilakanta Pillai: May I know whether such information may not be of a hearsay nature ?

Mr. Kayalam Paramesvaran Pillai: That depends upon the connotation of the word hearsay. A respectable gentleman is always expected to give information based on facts.

Mr. P. Padmanabhan Tampi: May I know whether any neeessity was ever felt for summoning any member for this purpose after the passing of the Co-operative Regulation ?

Mr. Kayalam Paramesvaran Pillai: Sometimes the necessity has been felt.

Mr. P. Padmanabhan Tampi: Can the Law Member quote any instance where such a necessity was felt ?

Mr. Kayalam Paramesvaran Pillai: I cannot quote any specific instance. But the power is quite necessary. If the auditor is aware that a paticular person would be able to give information should not the auditor be able to summon him. If that person is of some status and some importance he may be summoned by means of a letter of request. It will in no way injure the respect or prestige of the individual concerned.

Mr. K. P. Nilakanta Pillai: Suppose such summons are refused and the individual concerned declines to give the information, what is the consequence ?

Mr. Kayalam Paramesvaran Pillai: He will be dealt with under the appropriate provisions.

Mr. K. P. Nilakanta Pillai: Is he not entitled to get the benefit from the general law of evidence ?

Mr. M. N. Paramesvaran Pillai: Sir, on a point of order. The two amendments Nos. 17 and 18 practically are embodied as one amendment. I wish to know if this House will have any objection in taking amendment No. 18, because if amendment No. 17 is lost automatically the purpose of amendment No. 18 is defeated.

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President : Obviously if these amendments are put to vote separately, amendment No. 18 will not cover amendment No. 17. If they are put to vote together then of course amendment No. 18 will also be covered.

Mr. M. N. Paramesvaran Pillai: I request that these two amendments may be separately put to the vote of the House.

Mr. N. Ramakrishna Pillai : Sir, a word of explanation. The Law Member said that I moved my amendment very cleverly evading the expression "verification of cash balance." But I want to point out to the Law Member, that in the provision in the existing Regulation this expression does not find a place. Of course there is no display of cleverness in that.

President : There is no harm in displaying cleverness.

Mr. N. Ramakrishna Pillai : I am only submitting that I did not display any cleverness in omitting the expression. I was only suggesting that the existing provisions may be continued. To verify cash balance and securities is the duty of the auditor even though it is not expressly stated in the provision. In this connection I may point out the observations of the Devadhar Committee in connection with this. The committee says in page 179 thus :—

> "We are told that the inspectors and the honorary auditors when they audit the accounts do not as a rule call for the cash balance and verify it. An inefficient and incomplete audit would give occasion for fraud and misappropriation It should be the primary duty of the auditor to check the cash balance, and the Registrar who is responsible for the proper audit should see that the auditors do not shirk this responsibility."

The Committee does not say that it is due to want of adequate power given to the auditor that the cash balances are not verified. The more fact that this does not find a place in the amendment does not mean that the auditor will not have certain power. Of course I have no objection in giving the power to the auditor. The main objection is that as at present there is no instance where any complaint from auditors were received to the effect that they were not able to conduct the audit efficiently on account of the absence of this power. With these words I commend the amendment to the acceptance of the House.

Mr. Kayalani Paramesvaran Pillai : The motion is to substitute a clause for the existing clause. If that motion is carried no more amendment arises on this clause. If that is lost the other amendment may be moved.

The amendment was put to vote and lost.

Mr. K. Madhavan Pillai : Sir, I demand a poll.

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A poll was taken and the House divided as follows :

AYES—8.

1	Mr. V. S. Arumukham Pillai		5	Mr. K. P. Nilakanta Pillai	
2	,,	Kochikal P. Balakrishnan Tampi	6	,,	K. Padmanabha Panickar
3	,,	M. Govindan	7	,,	N. K. Padmanabha Pillai
4	,,	K. Madhavan Pillai	8	,,	N. Ramakrishna Pillai

NOES—18.

1	Mr. C. V. Chandrasekharan		10	Rao Bahadur Rajyasevanirata Dr. N. Kunjan Pillai	
2	,,	Eric Hall	11	Mr. C. O. Madhavan	
3	,,	M. Govinda Pillai	12	,,	M. N. Narayana Menon
4	,,	Hajee Hassan Yacub Sait	13	,,	K. Paramesvara Panickar
5	,,	J. John Kattakayam	14	,,	R. Pitchu Aiyangar
6	,,	Kayalam Paramesvaran Pillai	15	Rao Bahadur A. Rengaswami Aiyar	
7	,,	K. N. Kesavan Namputiripad	16	Mr. Sayed M. Bava	
8	,,	Komilezhathu Sankaran	17	,,	Tariatu Kunjitomman
9	,,	C. Kumara Das.	18	,,	G. B. E. Truscott

NEUTRALS—8.

1	Mr. H. O. L. Marikar		5	S. Piraviperumal Pillai	
2	,,	G. N. Narayana Aiyar	6	,,	K. Sankaralingam Pillai
3	,,	P. Padmanabhan Tampi	7	,,	E. P. Varghese
4	,,	M. N. Paramesvaran Pillai	8	,,	A. N. Visvanatha Pillai

The amendment was declared lost, 8 voting for the amendment, 8 against and 8 remaining neutral.

Clause 22.

Mr. N. Ramakrishna Pillai : Sir, I beg to move the following amendment :—

Add at the end of the clause the following sub-clauses :—

"(5) Every society shall once at least in every year cause the accounts of the society to be balanced and a balance-sheet to be prepared.

(6) The balance-sheet shall be audited by the Registrar or the person authorised by him to audit the accounts as hereinbefore provided and a report to be prepared by him shall be attached thereto or there shall be inserted at the foot thereof a reference to the report and the report shall be read before the general meeting of the society and shall be open to inspection by any member of the society.

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[Mr. N. Ramakrishna Pillai.]

(7) The Registrar or the person authorised by him to audit the accounts shall make a report to the members of the society on the accounts examined by him and on the balance-sheet laid before the general meeting of the society and the report shall state :

(*a*) whether or not he has obtained all the information and the explanations he has required ; and

(*b*) whether the balance-sheet exhibits true and correct view of the state of the society's affairs according to the best of his information and the explanations given to him and as shown by the books of the society."

Sir, we find in clause 22 of the Bill a provision made for the audit of a society. Of course the auditor will be given certain powers for the purpose of making an efficient audit. We do not at the same time find any responsibility cast upon the auditor to make a correct and proper audit. If the auditor does not make a correct audit there is no means of proceeding against him. Therefore some provision is necessary for enforcing the responsibility upon the auditor to guarantee a correct and satisfactory audit. It is for this reason that I bring in this amendment before the House. It is the duty of every society to prepare a balance sheet every year. The balance sheet should be examined by the auditor and the Auditor should make a report upon it. If the balance sheet itself does not contain that report a report should be attached to the Balance sheet to be read before the general meeting of the society. The necessity for having a statement by the auditor that the balance sheet exhibits a true and correct view of the accounts of the society is for the purpose of enabling to proceed against him, in case he makes an incorrect audit.

Mr. G. Narayana Aiyar : If an auditor submits an incorrect audit, can he not be proceeded against criminally for his negligence under the rules now prevailing ?

Mr. N. Ramakrishna Pillai : I do not think so, because under the law it is not the duty of the auditor to make a statement that his audit is correct.

Mr. G. Narayana Aiyar : But we find at the foot of the balance sheet an insertion that to the best of his knowledge the statement is correct.

Mr. N. Ramakrishna Pillai : The auditor merely certifies that he has verified the accounts. No statement is made that the account is correct. My amendment requires that the auditor should make a statement that he has received all the information and explanations he required and that to the best of his information, the accounts are correct. Such a statement is necessary in order to

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ensure that an auditor does his duty properly. That is the reason why I bring forward this amendment.

Mr. K. P. Nilakanta Pillai : Sir, I second the amendment. The present amendment covers my amendment also. As it has been observed, when wide powers are given to the auditor, you must see that a corresponding responsibility is cast upon him to go through the accounts correctly. Self respect is not the monopoly of Travancoreans. Also, the rights to misappropriate should not be the monopoly of Bombay citizens. Travancoreans also have shown that they are capable of it. That is the reason why I support the amendment. I may refer to the Excise Co-operative Society, and to the misappropriation there of about Rs. 10,000, in spite of the fact that it was regularly audited ; and the man is in jail now.

Mr. M. Govinda Pillai: May I inform the member that the society was not audited by the Excise Department or by the Account Office, that the defalcation took place subsequent to the audit and that the man is not yet in jail ?

Mr. K. P. Nilakanta Pillai : Misappropriation and theft are not the monopoly of non-officials ; officers also do that. There are many cases before us. That is the reason why we insist that a corresponding responsibility also must be cast upon the auditor who, according to the clause that we have just now adopted, is paid for his work.

Mr. M. N. Paramesvaran Pillai: Is the member of opinion that, if a judicial officer passes a wrong judgment and parties suffer on account of it, he should also be made liable ?

Mr. K. P. Nilakanta Pillai: I have no objection to amend the Civil Procedure Code to that effect

By making the auditor responsible for the correctness of the audit, nothing is taken away from him. I do not know why my friend is particular that the auditors should escape scot-free even if they err. For auditing joint stock companies, there are certified auditors. We know only too well the kind of audit that they make. The auditor one morning goes to the office of the company; he is flattered and patted on his back by the managing board ; and he issues a certificate. Therefore, when we provide for his remuneration and for all manner of facilities for his work, even at the risk of the humiliation of the board, what is the particular objection to cast a corresponding responsibility on the auditor and to make him answerable for the losses resulting from the incorrectness of his audit ?

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Mr. S. Piraviperumal Pillai: Is the member aware that irresponsible audit will entail cancellation of license?

Mr. K. P. Nilakanta Pillai: It is after the water has flown. Whether his license is cancelled or not, the mischief would have already been done. My humble submission is that there ought to be no objection to this amendment which says that every auditor should do his work honestly and should certify to the correctness of the balance sheet.

Mr. G. Narayana Aiyar: Sir, I support the amendment. Before proceeding further, it is better to see whether there is sufficient provision in the existing Regulation by which an auditor who submits an incorrect report is made answerable for it. In the absence of such a provision under the present law, it is safe to have such a provision like the one suggested by the amendment so that they may do their work with a sense of responsibility.

Mr. Kochikal P. Balakrishnan Tampi (*Mavelikara and Kunnattur* cum *Kartikapalli*): Sir, I oppose this amendment on the ground that it will be wrong in principle to penalise an auditor. First of all, it is not a power that he exercises. It is a duty cast upon him. An auditor is not exercising a power more than a doctor, or an engineer or a lawyer. A doctor who, by wrong diagnosis, fails to cure a patient even after exercising the utmost care, or a lawyer who loses a case is never penalised, because he does it in good faith. He is not penalised because he does it in good faith and to the best of his ability. No more can an auditor be penalised for doing this work. As suggested by Mr. Piraviperumal Pillai, he can be dealt with departmentally. Another reason is that the department cannot get any auditor who will work properly because he will be too nervous to work. To make him personally liable would be a preposterous proposition even in a socialistic state. All that we can expect public servants to do is to make them work to the best of their ability. We cannot expect them to be superhuman.

Mr. G. Narayana Aiyar: May I know whether the auditor has not got to make a statement at the end of his report that his statement is correct?

Mr. Kochikal P. Balakrishnan Tampi: Yes, to the best of his knowledge and information.

Mr. G. Narayana Aiyar: May I know whether a Judge or Munsiff, when he writes his judgment, is bound to make such a statement?

Mr. Kochikal P. Balakrishnan Tampi: Although my acquaintance with the legal profession is not quite long as my

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friend's, I may say that there is a sacred presumption that the judgment written by a judge is correct to the best of his knowledge. In spite of that we find in appellate courts that the judgments are wrong. In the same spirit, we have to take the auditor's report. Therefore I oppose the amendment.

Mr. M. Govinda Pillai Sir, I oppose the amendment. The amendment proposed smacks of joint stock audit. I may at the very outset state that co-operative audit and joint stock audit are entirely and fundamentally different In regard to penalising the auditor for acts of misfeasance and malfeasance, there seems to be a fear that any one may be appointed as auditor. I have already stated that Government have undertaken the responsibility for the audit of co-operative societies. Although, until recently, the non-officials who were working in the supervising unions were also requested to assist in the matter of audit, hereafter, with the reorganisation of the department, the intention of Government is to have the audit conducted solely by Government servants. As such, they are going to discharge their statutory responsibility in its entirety. Therefore, there need not be any apprehension that any irresponsible auditor would be appointed. Instructions have also been issued to the Assistant Registrars to conduct test audits in a specified percentage of societies with a view to see that the audit conducted is satisfactory and according to co-operative principles. If any remissness is brought to light, I am sure Government will not hesitate to deal with the delinquents. Therefore there need not be any misapprehension that any mistake will be committed with impunity.

Mr. S. Piraviperumal Pillai: Is it the contention of the member that all the auditors who are certified by Government are not doing their work properly ?

Mr. M. Govinda Pillai: I do not insinuate like that in the least degree. I am not speaking anything about joint stock audit. The certificate which my honourable friend referred to relates only to joint stock audit. No such certificate is issued for co-operative audit.

Mr. S. Piraviperumal Pillai: Is it the member's contention that joint stock auditors are precluded from co-operative auditing ?

Mr. M. Govinda Pillai: They are not permitted to audit co-operative societies.

Mr. G. Narayana Aiyar: Even in the absence of such a provision, will any auditor commit mistakes ?

Mr. M. Govinda Pillai: If he commits mistakes, he will be liable to punishment by Government ?

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Mr. G. Narayana Aiyar: If that be the case, then why not make a specific provision?

Mr. M. Govinda Pillai: I do not think there is any other law which the Government administers which penalises public servants for probable acts of misfeasance and malfeasance.

Mr. M. N. Paramesvaran Pillai: May I point out that it is compensation that is provided in the amendment, and not criminal punishment?

Mr. M. Govinda Pillai: If, in any case, serious loss results on account of bad auditing, Government will not be reluctant to make good the loss on account of such misdeeds of the auditor. Government have undertaken the responsibility for audit, because such a responsibility has to be undertaken in the interests of the movement. You have to trust Government.

Mr. N. Ramakrishna Pillai: Are the Government prepared to pay for misappropriations committed by Government servants?

Mr. M. Govinda Pillai: I am not here to interpret the law. I am sure the honourable member who is a lawyer knows it very well. I am very thankful to Mr. Nilakanta Pillai for the very graphic description he has given of joint stock audit. We do not want joint stock auditors to audit our accounts. The department audits the accounts minutely, investigates every transaction and then issues certificates. For these reasons, I oppose the amendment.

Mr. Kayalam Paramesvaran Pillai: Sir, I wish to add a few words. In regard to co-operative societies, the primary duty of auditing, is on the State: Unlike joint stock companies, co-operative societies are allowed to be created for a particular purpose. It is scarcely necessary for me to enlarge upon that aspect of the matter. It will be readily admitted that it is in the interests of the State no less than that of the societies that the societies should thrive. Therefore, the societies should be audited. The State therefore undertakes the audit. Government want to see from the audit report how the societies are working.

Mr. N. Ramakrishna Pillai: May I know whether the Government have got any other responsibility than those imposed under this Regulation?

Mr. Kayalam Paramesvaran Pillai: I am saying that the Regulation ought to cast a responsbility upon the State. Clauses 1 to 4 to which the present clauses are to be added have to stand. If those clauses stand, then the State will have the responsibility to audit and get audit reports. These reports will be perused by Government. If this is borne in mind the cloven foot

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in the amendment will be evident. What Mr. Ramakrishna Pillai wants is that the societies should prepare the balance sheet and the Registrar should audit that balance sheet on behalf of the society. Why should the State undertake that responsibility on behalf of the society. He wants the State to conduct an audit *on behalf of* the society. I ask *cur bono*. Really we are not concerned with it. The State only wants the audit for the purpose of the State. Mr. Ramakrishna Pillai wants the audit in the interests of the society. If a society wants to have its accounts audited, let it appoint its own auditor. The departmental auditor will not be responsible for the audit done on behalf of the society. Again Mr. Ramakrishna Pillai wants the departmental auditor to make the report to the society, and not to the Government. If a society wants an audit, let it, appoint its own auditor.

Then in regard to clause 8, a duty is cast thereby to the society. If the State appoints an auditor his duty is *to Government*. If the society appoints an auditor his duty is to the society.

Mr. M. N. Paramesvaran Pillai: When the society is asked to pay for the audit, is it not entitled to protection?

Mr. Kayalam Paramesvaran Pillai: I am not quite sure that I have made my position clear. What I say is that the society should be audited in the interests of the State. The clauses we have already passed over namely, sub-clauses (1) to (4) want the audit on behalf of the State. But Mr. Ramakrishna Pillai now wants the audit on behalf of the society. I do not know if the member wants the audit to be free because he does not want to make any provision for charges. So far as the State is concerned, they appoint their own auditors and get the audit reports If the society wants a report, let them appoint their awn auditor. That is the fundamental difference to be noted. I oppose the amendment.

Mr. N. Ramakrishna Pillai: Sir, from the speech of the learned Law Member, I understand that the Government are not prepared to make a thorough audit for the society. They are prepared to go to a certain extent only for their own satisfaction. Of course, Government have undertaken to audit all the societies. But Government are not anxious to audit the societies for the sake of the societies.

It depends on the question whether a particular society is prepared to pay for the audit, if it comes to that. We see from the provisions already passed that a fee is going to be imposed for the audit. When the proposal is to enforce a payment of fee for the purpose of audit, it is quite reasonable to expect that the audit should be thorough and proper. Then the members of the society

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[Mr. N. Ramakrishna Pillai.]

may know where they stand. It is not enough if the Government satisfies themselves, by a cursory examination, that the society is working satisfactorily. It is necessary to impress on the members that the audit of accounts is thorough and efficient and that the statement of the society could be relied upon. Therefore I want this amendment to form part of the Regulation.

Mr. M. N. Paramesvaran Pillai: May I know how far the audit of balance sheet will ensure the prosperty of a society?

Mr. N. Ramakrishna Pillai: Because a payment is imposed, the auditor should examine the balance sheet and make a report on it.

Mr. Kayalam Paramesvaran Pillai: What about cash?

Mr. N. Ramakrishna Pillai: There is already provision for that.

Mr. M. N. Paramesvaran Pillai: Is the audit of the balance sheet, sufficient guarantee to certify the correctness of the accounts of a society?

Mr. N. Ramakrishna Pillai: The auditor has to examine the accounts and then certify the balance sheet. He has to state that the accounts are correct.

Mr. M. N. Paramesvaran Pillai: Is it the opinion of the member to make the auditor responsible also for the bad state of affairs of a society?

Mr. N. Ramakrishna Pillai: No. A thorough examination of the accounts will have to be made by the auditor. Then he should certify about the correctness of the accounts. This practice is followed in joint stock companies. I do not know why any body should be frightened at the analogy of joint stock companies. It is a well established principle of law that an auditor is responsible for the carelessness or neglect on his part. That is the provision which I want to adopt in the case of co-operative societies. When the Government have undertaken to audit the societies and when the auditor is armed with extraordinary powers of summoning any office bearer for the purpose of audit, and when a payment of fee is imposed for the examination of accounts, I do not see any reason why the auditor should not be made responsible for the correctness of the accounts.

The amendment was put to vote and lost.

The question that clause 22 do stand part of the Bill was then put to vote and carried.

The clause was added to the Bill.

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Clauses 23 to 30.

The question that clauses 23 to 30 do stand part of the Bill was then put to vote and carried.

The clauses were added to the Bill.

Clause 31.

Mr. K. P. Nilakanta Pillai: Sir, I move that in clause 31. After the word 'as' in line 3, add the following :—

"Amount decreed by a Civil Court and the provisions of the Code of Civil Procedure, 1110, regarding execution of decrees shall apply to the same", and omit the rest of the clause beginning with the word "arrears" and ending with the word 'parties' in line 12 (including the proviso and the explanation)".

The clause as amended will read thus :—

"Whenever a decision or an award of the Registrar or Arbitrator or an order of the Registrar or liquidator is obtained by a registered society for the realisation of money any such money may be recovered as amount decreed by a Civil Court and the provisions of the Code of Civil Procedure, 1110 regarding execution of decrees shall apply to the same".

This is a very important amendment, and I propose to deal with it at length on account of the indifference exhibited by a certain section of the House to important amendments.

Mr. M. N. Paramesvaran Pillai: May I know whether the member is advocating on behalf of the debtors, or of the society ?

Mr. K. P. Nilakanta Pillai; I am speaking for the interests of societies as well as for the peace and tranquillity in Travancore.

Mr. M. N. Paramesvaran Pillai: May I know from the member whether it is not better for the society to apply the provisions of the Revenue Recovery Regulation for realisation of arrears ?

Mr. K. P. Nilakanta Pillai: I am surprised to hear that a member, who has advanced views in similar matters, is putting that question to me

I doubt very much whether the member has understood the purport of my amendment. If the member will be patient enough to hear me, he will understand me, and he can put questions at the end of my speech.

We have been listening to the arguments advanced by the members in charge of this Bill, the Registrar on the one hand and the Law Member on the other, that a particular clause has been adopted from the Madras Act, and another from the Bombay Act and a third from the All India Act. All those arguments are quite hollow. The Bombay and the Madras Acts are universally condemned by every eminent co-operator. The provisions from those

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[Mr. K. P. Nilakanta Pillai.]

Acts bid good-bye to many of the progressive ideals contained in the All India Act of 1912. Therefore, to say "we have adopted this from the Madras Act, or that from the Bombay Act" is no argument which can be advanced. My appeal to the members of this House is that they should not be deceived by such arguments.

Mr. K. Madhavan Pillai: What has become of the Ministry, in Madras, that was responsible for co-operative movement?

Mr. K. P. Nilakanta Pillai: The fate is well-known.

Mr. M. Govinda Pillai: Has the member any idea about the Bombay Ministry after the 1925 Act?

Mr. K. P. Nilakanta Pillai: That is also well known.

Mr. M. Govinda Pillai: Does the member know that Bombay is ahead of every other Indian Province in the matter of co-operation?

Mr. K. P. Nilakanta Pillai: The whole co-operative movement is controlled by capitalists there, who are to a certain extent reactionaries from the point of view of the general public that accounts for it.

I ask the plain question from which Act the present clause has been copied out Is it from the Bombay Act, or from the Madras Act, or from the All India Act, or from the old Regulation?

Mr. E. P. Varghese: Can it not be an original provision?

Mr. K. P. Nilakanta Pillai: Certainly, a very original one; therefore I have to advance very original arguments. What the clause provides is this. Where an award is given by the Registrar or by his deputy, for realising the amount due to a society, he is to be armed with the provisions of the Revenue Recovery Regulation. That is a power exercised by Division Peishkars to realise arrears of tax. That in short, is the purport of this provision. Now, the members can more or less understand why I am a little bit hot in moving this amendment to that provision. On a previous occasion, this House opposed a similar provision, which was attempted to be included in regard to the Sreepadom dues. The House clearly expressed the view that the Revenue Officers do a lot of mischief in applying the provisions of the Revenue Recovery Regulation and in effecting attachments of movable and immovable properties. We know in what strong language the House ventilate its grievances against the present Revenue Officers and their illegal acts. We must bear in mind that it is the Division Peishkar who is invested with the power of collecting arrears of tax under the Revenue Recovery Regulation.

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Mr. M. N. Paramesvaran Pillai: Does the member know that even municipal subordinates collect tax by means of the Revenue Recovery Regulation?

Mr. K. P. Nilakanta Pillai: It is known to all that my friend is more concerned with municipal administration and with the collection of scavenging fees and other municipal dues.

Mr. M. N. Paramesvaran Pillai: I am very sorry for the ignorance exhibited by my friend.

Mr. K. P. Nilakanta Pillai: Any how my friend need not express any opinion about the extent of my knowledge in this matter.

Mr. M. N. Paramesvaran Pillai: May I point out that, when the Edavagai Bill was under consideration, the honourable member supported the view that the provisions of the Revenue Recovery Regulation should be conferred on the Sreepadom Officer if his status is not lower than that of a Tahsildar.

Mr. K. P. Nilakanta Pillai: I am very thankful for the extreme ignorance exhibited by the honourable member, in this instance. (*Laughter.*) It must be fresh in the minds of some of the members that, when the Sreepadom Bill was under consideration, I fought for three days in seeing that the recovery of arrears by means of the Revenue Recovery Regulation was not adopted. There was only one member in this House who supported that. At any rate we succeeded, in getting our proposition carried.

Mr. M. N. Paramesvaran Pillai: May I know from the member when the Edavagai Bill was under discussion in this House?

Mr. K. P. Nilakanta Pillai: I refuse to answer further questions from the honourable member. I do not know why the member should fight shy of placing his own views before the House. He is merely sitting quiet and interpellating others here and there. I know he used to be a voracious speaker (*Laughter.*)

The House adjourned at 1 P. M. and reassembled at 2 P. M. with the President in the chair.

Mr. K. P. Nilakanta Pillai: I was just observing that a similar provision is wanting either in the Bombay Act or in the Madras Act. Not only that. The Bombay Act provides that, in the matter of realisation of dues from a member, the ordinary course is that the award of the Registrar should be considered as a decree and that it should be executed through the civil courts of the place. That is what the Bombay Act says. The Madras Act is also similar to that. But the provision in the existing Regulation is otherwise.

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Mr. M. Govinda Pillai: May I point out that the provision under the existing Regulation is that an award may be executed either through the civil courts or by the Revenue Recovery Regulation ?

Mr. K. P. Nilakanta Pillai: Generally, as a matter of fact, when an award is given, that is taken to the civil court and executed as a decree of the civil court. That is what is done in Travancore to-day. I do not understand what were the special reasons which weighed with the framers of this Bill for seeking the aid of the powers under the Revenue Recovery Regulation, for the realisation of amounts due to co-operative societies.

Mr. E. P. Varughese: Will it not expedite the realisation of dues ?

Mr. K. P. Nilakanta Pillai: If an award is obtained and the Revenue Recovery Regulation is put in motion, and the moyables and immovables of any person is attached, what will be his predicament ? I have absolutely no objection even if some of the provisions of the Draconian Code put into operation for the realisation of small amounts due to co-operative societies. The dues that co-operators owe to the society are only very small amounts. I am against the fundamental principle of applying the provisions of the Revenue Recovery Regulation for the realisation of the amounts due to any private body. Anyhow, the co-operative societies are private bodies. I do not see why the powers which rest with the Revenue Department should be made available to these private bodies. Even though some of the banks approve of this amendment, I, as an independent man who has the best interests of the ordinary co-operator at heart, have tabled this amendment independent of any requisition from any bank or society. We can more or less imagine what will be the predicament of the poor agriculturist if the powers under the Revenue Recovery Regulation are going to be made applicable for the realisation of amounts due to co-operative societies. We can guess the amount of hardship and distress that will be caused to the poor agriculturists. That is my objection to this provision. There was a time when we all fought that the powers under the Revenue Recovery Regulation should not be given to any body. That is the reason why I referred to the Sripadom Bill. The officer or the manager of the Sri padom will be a selected man with actual experience in revenue matters. Even in the case of such a man, the House stood against his being given the powers under the Revenue Recovery Regulation. If that be so, how far is it reasonable that these men belonging to the Co-operative Department should not be given those powers ?

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Mr. E. P. Varughese: Are not these societies quasi-public bodies? Are they purely private bodies?

Mr. K. P. Nilakanta Pillai: Co-operative societies are private bodies, pure and simple, without any adulteration whatsoever. My friend's idea of co-operative societies is curious.

Mr. E. P. Varughese: Are they at least quasi-public bodies?

Mr. K. P. Nilakanta Pillai: My friend may exhaust all legal terms; I have no objection.

Mr. E. P. Varughese: And, yet the honourable member will not understand? (*Laughter.*)

Mr. M. N. Paramesvaran Pillai: The powers are to be conferred on the Registrar and his nominees, and not on any private individual. Is not the Registrar a man higher in status than the Tahsildar?

Mr. K. P. Nilakanta Pillai: But the wording is "the Registrar or his nominee". Apart from that, my fundamental objection is not with reference to the Co-operative Registrar himself being invested with this power.

Mr. M. N. Paramesvaran Pillai: Has the member any objection in giving the power to any officer who is not inferior in status to the Assistant Registrar?

Mr. K. P. Nilakanta Pillai: My quarrel is not with the Registrar or the Assistant Registrar being invested with this power. My point is that powers under the Revenue Recovery Regulation should not be given to any private body or corporation for the realisation of its dues.

Mr. Kayalam Paramesvaran Pillai: Are not the Sripadom dues liable to be recovered as arrears of public revenue?

Mr. K P. Nilakanta Pillai: I merely referred to the position taken by the House when it discussed the Sripadom Bill, and the provision there that the Sreepadam manager should be invested with these powers, to show that the Legislature has always been against the powers under the Revenue Recovery Regulation being made available to any private institution? Honourable members exhibit wonderful capacity to misunderstand my argument. The Revenue Recovery Regulation should be used by the Sirkar for the realisation of Sirkar tax alone. I can understand that position. The Sirkar is maintaining a set of officers who collect taxes to be spent for the people. In the case of the Sripadom, the officer appointed by the Sreepadam authorities looks after the interests of the Sripadom people. The Sreepadam dues are not spent for the benefit of the people.

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Mr. M. N. Paramesvaran Pillai: May I know whether the member has any objection in allowing Jenmikaram being recovered under the Revenue Recovery Regulation?

Mr. K. P. Nilakanta Pillai: My friend has already drawn my attention to the fact that even for the realisation of scavenging fees, the Revenue Recovery Regulation is allowed to be applied. So, no more argument need be advanced so far as my friend is concerned.

Mr. S. Piraviperumal Pillai: May I know who, under the present clause is actually to be invested with the powers of the Division Peishkar?

Mr. K. P. Nilakanta Pillai: The power may be given not only to the Registrar but also to his nominee. The Revenue Recovery Regulation is a very powerful arm with the Government and it ought to be used only for the realisation of Government tax. Is it the case that if no power under the Revenue Recovery Regulation is given, the arrears will not be realised? The ideal in the co-operative movement is "each for all and all for each". If that be so, should such a power be given to the Registrar or to his nominee for the realisation of such small amounts? Suppose 50 per cent of the people are proceeded against under the Revenue Recovery Regulation during harvest time, and all crops are attached. You can more or less imagine the plight and misery of these poor agriculturists. I wonder why questions like these are put to me. I have repeatedly brought to the notice of this House that powers under the Revenue Recovery Regulation should not be given to any private body. I do not see why they should object to my amendment. Even in the case of the Revenue Department, only a Division Peishkar is invested with the powers under the Revenue Recovery Regulation. He is a tried Revenue Officer. He must have risen to that position by working as a Tahsildar or even as a clerk in the Secretariat.

Mr. Kayalam Paramesvaran Pillai: Or by studying in the Preparatory Class at first. (*Laughter.*)

Mr. K. P. Nilakanta Pillai: Yes, sometimes even uneducated men who do not know English happen to become Peishkars. Anyhow it is true that persons who are appointed as Peishkars are tried Revenue Officers. I do not understand how the Law Member slights the importance of that argument. It is quite fresh in my memory that this very same Law Member advanced the cause of the Peishkar when he pleaded for the Sreepadam manager being invested with the powers of the Division Peishkar. When I say that only tried Revenue Officers should be invested with the

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powers under the Revenue Recovery Regulation, the learned Law Officer asks the question whether "should he not have studied in the Preparatory Class?". What a wounderful question, Sir? (*Laughter.*)

That question serves as an index as to how my speech is being listened to by my learned friends. (*Laughter.*)

Every action taken by the Tahsildar or the Peishkar is appealable to the Land Revenue Commissioner or the Dewan.

Mr. E. P. Varughese: May I know whether it is not applicable under this clause also?

Mr. K. P. Nilakanta Pillai: My friend evidently has not read the bill.

Mr. E. P. Varughese; The Explanation to Clause 31 provides for appeal.

Mr. K. P. Nilakanta Pillai: There are subsequent provisions which say that without the Registrar permission no appeal can be preferred. The Division Peishkar and other revenue subordinates are subject to the disciplinary control of Government. But, what about the Assistant or the Deputy Registrar? The Registrar may be a benevolent man. But the Assistant Registrar or the Deputy Registrar may not be infallible. To err is human; and, in this matter, an error of judgment may cause untold miseries and hardships to the agriculturist co-operator. Therefore there must be some provision by way of appeal. But when the Revenue Recovery Regulation is applied and movables are attached, what is the use of any appeal. What is it that can be achieved by appeal after the whole matter is over? In the case of recovery of the Sripadam dues, this House devoted 3 days in discussing the question as to whether the Sripadom officers should be invested with the powers under the Revenue Recovery Regulation; and the House voted that this power should not be given. Here the power affects the whole Travancore, and every co-operator whether rich or poor. There may be interested people who want this power to be invested with the Registrar and his subordinates. My submission is that that should not be allowed. I, for my part, cannot understand what is the special circumstance which necessitated the inclusion of this provision which is absent in the Bombay Act or in the Madras Act or in the Cochin Regulation. I am convinced that this extraordinary power is quite unnecessary so far as the co-operative movement is concerned. Without this power the movement can be satisfactorily controlled, and all the outstanding debts can be realised

Mr. M. N. Paramesvaran Pillai: Has my fried any objection in the suits for the realisation of dues to the co-operative societies being decided by the Civil Courts and not by the Registrar?

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Mr. K. P. Nilakanta Pillai: I have absolutely no obection. After all, what is the nature of these suits? Instead of going to a court and obtaining a decree, the Registrar is approached and he gives an award.

Mr. M. N. Paramesvaran Pillai: Can that award be questioned in a Civil Court?

Mr. K. P. Nilakanta Pillai: No.

Mr. M. N. Paramesvaran Pillai: Then is it not better to give the Registrar the powers to execute his award?

Mr. K. P. Nilakanta Pillai: I have no objection if the procedure prescribed by the Civil Procedure Code is to be adopted. It has been declared that the award of the Registrar will have the effect of a decree. If the Registrar will execute his award as the Civil Courts execute decrees, let him execute them expeditiously. Anyhow, the award is given the force of a decree. Mr. M. N. Paramesvaran Pillai's objection is that unnecessary delay will be caused by the Registrar in the execution of decrees. But I have no objection in giving the power of execution to the Registrar, only, the Registrar should not be given the powers under the Revenue Recovery Regulation.

M. E. P. Varughese: Will it not expedite the realisation of the dues?

Mr. K. P. Nilakanta Pillai: Certainly, it will. Then, why not private concerns like the Quilon Bank or the National Bank, be given the powers to collect their dues under the Revenue Recovery Regulation? Why should there be any distinction made with regard to those institutions, particularly the State-Aided Bank in the affairs of which our Government have also a hand?

Mr. E. P. Varughese: I wish it were done in the case of the arrears due to the State Aided Bank.

Mr. K. P. Nilakanta Pillai: The honourable member who fights vehemently for the rights of the tenants, in regard to Tenants' Improvement Compensation Bill, as if he were the custodian of their rights, now wants extraordinary powers to be vested on petty officers to realise small dues from poor agriculturists. I wonder at his changing colour.

Mr. E. P. Varughese: Will it not contribute to the better administration of the co-operative movement?

Mr. K. P. Nilakanta Pillai: It will contribute to the utter ruin of the whole movement.

Mr. E. P. Varughese: Will not credit societies flourish better if their dues are realised speedily rather than by the slow processes of Civil Courts?

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Mr. K. P. Nilakanta Pillai: For that matter every banking concern will flourish better if such powers are given to it. Will you do it?

Mr. E. P. Varughese: Are Joint Stock Banks and Co-operative Societies on the same footing?

Mr. K. P. Nilakanta Pillai: So far as the business of banking is concerned, they are on the same footing.

Mr. K. Madhavan Pillai: Under the Revenue Recovery Regulation, can the authorities attach the agricultural implements, cattle and fodder for realising land revenue?

Mr. K. P. Nilakanta Pillai: No, but here even fodder seeds, and even the pot with boiling rice can be attached under this provision.

Mr. E. P. Varughese: May I know from the member why he did not bring an amendment to avoid that?

Mr. K. P. Nilakanta Pillai: If only my friend would be charitable enough to vote for this amendment, that object also will be indirectly achieved.

Mr. E. P. Varughese: As long as there is a provision in the Bill that the agricultural implements can also be attached will the present amendment achieve that object?

Mr. K. P. Nilakanta Pillai: That will be achieved if the officers are not given the power to attach anything under the Revenue Recovery Regulation.

Mr. M. N. Paramesvaran Pillai: May I point out to my friend that there is no provision for attaching seeds and implements; but only things, which the agriculturist ought from the money he borrowed from the society will be subject to a lien, for the amount due, in favour of the society?

Mr. K. P. Nilakanta Pillai: Yes, yes; it may be so; I may be a little bit mistaken. I would only appeal to the honourable member to make a speech and clear my doubts. He is unusually silent on this Bill.

With these words, I commend the motion to the acceptance of the House.

Mr. G. Narayana Aiyar: Sir, I support the amendment brought forward by Mr. K. P. Nilakanta Pillai. In these days when every sort of concession is given to all debtors by allowing time and by making provision for repayment piecemeal, it is very hard indeed to resort to coercive processes for the collection of co-operative debts. This weapon, if it is given to officers may, most probably be misused by them.

Mr. K. Madhavan Pillai: Is this provision in consonance with the definition of co-operation?

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Mr. G. Narayana Aiyar: No.

Mr. M. Govinda Pillai: May I know from the member whether there is any definition of co-operation, any statutory enactment regarding co-operative principles?

Mr. G. Narayana Aiyar: No. What I submit is that, when concessions are given to all debtors, this provision is very hard against the members of co-operative societies who are as a rule very poor, and who are not able to pay back their debts even in small instalments.

Mr. M. Govinda Pillai: May I inform the member that the Revenue Recovery Regulation has been availed of during the past 20 years?

Mr. G. Narayana Aiyar: That is no justification for further continuing it. In recovering the amounts due under the awards of the Registrar, execution should be done through civil courts, and not under the Revenue Recovery Regulation?

With these words, I support the amendment.

Mr. Kayalam Paramesvaran Pillai: I oppose the amendment. There are two principles involved in this clause. The first is that the amount due may be recovered as arrears of public revenue. The second principle is that certain officers may be conferred the powers of certain revenue authorities. These two should not be mixed up together. The first is that the dues of a society may be recovered as arrears of public revenue.

That is a concession granted to co-operative societies in order that they may expeditiously recover the dues. In the case of these societies the State takes particular interest. The State wants the Co-operative movement to thrive and in order that they may recover their dues expeditiously the State wants to award them a useful weapon, if I may say so.

Mr. E. P. Varughese: In view of the provision contained in Section 24 that the dues of a society is a prior charge, where is the necessity for this provision?

Mr. Kayalam Paramesvaran Pillai: That has nothing to do with this. I was just telling the House that this privilege of the dues being recoverable as arrears of public revenue is conferred upon them.

Mr. M. N. Paramesvaran Pillai: May I know whether the present clause excludes any society from executing its awards in any civil court? Is it not open to a society to resort to civil courts also to execute its awards?

Mr. Kayalam Paramesvaran Pillai: It may be.

Mr. E. P. Varughese: Is it not open to them to recover the dues either through civil courts or under the Revenue Recovery Regulation?

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Mr. Kayalam Paramesvaran Pillai Be it so. This particular thing is a privilege conferred upon them in order that co-operation may thrive. This is not a new thing. It has been in existence for the last quarter of a century and there has been no complaint. The Joint Stock Companies are entirely different. They exist purely for private profit. In the case of co-operative societies they do not function for private profit. I may even say that profit is not their main concern, whereas profit is the main concern, of the joint stock companies. In the case of private concerns the State does not give this privilege. But co-operation is the pet child of Government.

Mr. K. Madhavan Pillai: Is it because co-operation is the pet child of Government that agricultural implements are made liable to be attached?

Mr. Kayalam Paramesvaran Pillai: That is based on a mistaken notion. Just now, I am dealing with the right of recovering the dues under the Revenue Recovery Regulation.

Mr. N. Ramakrishna Pillai: May I know how many awards have been executed in that manner?

Mr. Kayalam Paramesvaran Pillai: A large number of them.

Mr. N. Ramakrishna Pillai: May I know who executed the awards?

Mr. Kayalam Paramesvaran Pillai: Very often the Tahsildars and Peishkars, I think.

And there has been no complaint on that. As a matter of fact, there can be no complaint. The principle that these dues may be recovered as arrears of public revenue is an accepted principle. This is recognised in other provinces like Bombay, the Central Provinces and the United Provinces.

The question may, however, be asked why this provision is embodied in the Regulation itself where as at present it finds a place in the rules. The reason is this. The rule simply says that the dues of a co-operative society may be recovered as arrears of public revenue. The power of so recovering may be conferred on any officer, say even on a clerk. The Government want to make it quite clear that this power shall not be conferred on any officer inferior in rank to that of an Assistant Registrar. In order that this safeguard may be enacted and Government may not abuse the power, they now place the provision before the legislature. If this provision is not accepted what will happen is that under the Revenue Recovery Regulation the Government can confer the powers of the Peishkar on any person. On the other hand if it is accepted the powers will be conferred only on officers not inferior to the Assistant Registrar. It is for this assurance that it is put in the Bill itself.

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[Mr. Kayalam Paramesvaran Pillai.]

In regard to the attachment of agricultural implements, if Government feel that an exemption ought to be given in such cases they may do so. It may be seen from the clause itself.

"Any such money may be recovered as arrears of public revenue under the Revenue Recovery Regulation, I of 1061 subject to such rules, if any, as may be prescribed."

If Government feel that any hardship is felt Government may make rules.

Mr. K Madhavan Pillai: Is the Government aware that it is a wrong thing to attach agricultural implements?

Mr. Kayalam Paramesvaran Pillai: At any rate there was no serious complaint.

Mr. K. Madhavan Pillai: Is it not expressly laid down that agricultural implements should not be attached for recovering arrears of revenue?

Mr. Kayalam Paramesvaran Pillai: If that is so, they will not be attached even now.

Mr. M. N. Paramesvaran Pillai: May I point out that if the amendment is accepted there will be no agency for executing the awards of the Registrar, because the section says "and our Government may for such purposes confer on the Registrar or any officer subordinate to him the powers of a Division Peishkar?" Who should execute the award?

Mr. Kayalam Paramesvaran Pillai: Perhaps the mover of the amendment does not want the money to be realised at all.

Mr. N. Ramakrishna Pillai: May I know whether the safeguards provided in the Revenue Recovery Regulation are also available to the debtors?

Mr. Kayalam Paramesvaran Pillai: Yes.

Mr. N. Ramakrishna Pillai: That is not the wording.

Mr. Kayalam Paramesvaran Pillai: The money may be recovered under the Revenue Recovery Regulation. If further safeguard is wanted Government can provide for it. So far as this clause is concerned nothing can be done *beyond* the Revenue Recovery Regulation. I may explain what Section 24 says. It says that any debt or outstanding demand owing to a society shall be a first charge "upon any cattle, fodder for cattle, agricultural or industrial implements etc., supplied to or purchased by such or past member or deceased member in whole or in part from any loan whether in money or goods given him by the society."

If you borrow money from a society and make agricultural implements with that money it is only reasonable that such implements should be made to bear the charge.

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Mr. K. Madhavan Pillai: By attaching agricultural implements you put not only the man but his family also to difficulties?

Mr. Kayalam Paramesvaran Pillai: He borrows money from the society and with that money makes agricultural implements. If he does not pay back the amount, should they not be made liable? But I ask how is the difficulty suggested by Dr. Madhavan Pillai got over? He will have the dues recovered through civil courts. By accepting this amendment we are not getting over that difficulty. Because the civil courts will still proceed against the articles.

Mr. M. N. Paramesvaran Pillai: Even accepting the amendment one is not bound to go to the civil court.

Mr. Kayalam Paramesvaran Pillai: Further we are not at present concerned with clause 24. That principle has been accepted. The amendment merely says that the dues of a society may be recovered as arrears of public revenue.

Mr. K. P. Nilakanta Pillai: What is the meaning of these words in my amendment?

"Amount decreed by a Civil Court and the provisions of the Civil Procedure Code 1110 regarding execution of decree shall apply to the same."

Mr. Kayalam Paramsvaran Pillai: This clause merely lays down that the dues may be recovered as arrears of public revenue and the officer executing the awards must be of a rank above that of an Assistant Registrar. The matter is so easy but there seems to be some confusion. Even to-day the Sreepadom dues are recovered as arrears of public revenue.

Mr. K. P. Nilakanta Pillai: Under the existing provision, through whom is the Revenue Recovery Regulation put into operation?

Mr. Kayalam Paramesvaran Pillai: Through the Dewan Peiskar

And Government have got the power to confer the powers of a Peishkar on *any* officer.

Mr. K. P Nilakanta Pillai: But that cannot be done for the purpose of the Co-operative Societies Regulation.

Mr. Kayalam Paramesvaran Pillai: Government have got the power to confer the powers of a Peishkar on *any* officer. Once such powers are conferred upon an officer he can collect the dues as arrears of public revenue. The principle that Mr. Nilakanta Pillai said he was fighting for in his previous speeches is really embodied in this clause and I think therefore it must be acceptable to him and I think that the House should be thankful to me that this clause is put in.

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Mr. S. Piraviperumal Pillai: Sir, I also wish to support the amendment moved by Mr. Nilakanta Pillai The question is not whether the powers of a Peishkar may be conferred upon an Assistant Registrar or anybody else but the question is whether the money due to a society can be treated as the dues of Government.

(*At this stage the President occupied the Chair.*) The Law Member just now said that this has to be treated as public revenue. Let us now see the object with which the Revenue Recovery Regulation was promulgated. The Revenue Member who introduced Regulation I of 1068 stated:

Thus we see that this Regulation was promulgated to assist Government in the matter of realising Government dues and land tax due to Government. But of late we find that Government have been resorting to this Regulation for recovering any and all dues. If the subscription of a member of the Public Library falls into arrears it is collected under the Revenue Recovery Regulation. If a member takes a book from the Legislative Library and does not return it, the amount is recovered from him under this Regulation.

Mr. M. N. Paramesvaran Pillai: May I know whether there is any such instance?

Mr. S. Piraviperumal Pillai: There may or may not be Government resort to this Regulation for the collection of all Government dues. I have no objection to that. The question here is whether the amount due to the society can be treated as public revenue. If that can be treated as public revenue then I concede that the Revenue Recovery Regulation may be applied. But that cannot be treated as public revenue and Government will not be justified in applying the Revenue Recovery Regulation. Therefore I support Mr. Nilakanta Pillai's amendment.

Mr. E. P. Varughese: Sir, I also support the amendment. I was moved by the appeal of Mr. Nilakanta Pillai that, owing to the indifference of honourable members, his amendments were falling through. But I do not subscribe to that view.

When my attention was drawn to Section 24 I thought that there was no harm in supporting the amendment. The Revenue Recovery Regulation is applied by Government for the purpose of speedy recovery of their dues. According to Section 24 the debt due to a co-operative society is a prior charge on agricultural implements and agricultural produce. Even on fodder of cattle there is a prior charge. In view of the plea that the application of the Revenue Recovery Regulation will result in hardship to the poor agriculturist, I think the stringent provisions of the Revenue Re-

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covery Regulation should not be applied, especially in view of the fact that a prior charge has been created on agricultural produce, implements and seeds, which are not ordinarily attachable under the Civil Procedure Code. So in the method of recovery some leniency should be shown. So, I support the amendment.

The amendment was put to vote and lost.

Mr. K. P. Nilakanta Pillai : I demand a poll.

A poll was taken with the following result :

AYES -12.

1 Mr. K. P. Nilakanta Pillai	7 Mr. M. P. Madhavan Pillai
2 ,, K. Padmanabha Panikkar	8 ,, V S. Arumukham Pillai
3 ,, M. N. Paramesvaran Pillai	9 ,, K. Madhavan Pillai
4 ,, S. Piraviperumal Pillai	10 ,, N. Ramakrishna Pillai
5 ,, G. Narayana Aiyar	11 ,, E. P. Varghese
6 ,, H. O. L. Marikar	12 ,, A. N. Viswanatha Pillai

NOES—14.

1 Mr. M. N. Narayana Menon	8 Mr. C. Kumara Das
2 ,, Eric Hall	9 ,, G. B. F. Truscott
3 ,, P Balakrishnan Tampi	10 ,, C. V. Chandrasekharan
4 ,, K. Sankaran	11 ,, C. O. Madhavan
5 Rajyasevanirata Rao Bahadur Dr. N. Kunjan Pillai	12 ,, R. Pitchu Aiyangar
6 Mr. K. Paramesvara Panikkar	13 ,, M. Govinda Pillai
7 Rao Bahadur A. Rengaswami Aiyar	14 ,, Kayalam Pāramesvaran Pillai

NEUTRALS—3.

1 Mr. Syed M. Bava	3. Mr. K. Sankaralingam Pillai
2 ,, M. Govindan	

The amendment was declared lost 12 Voting for the amendment, 14 agsinst and 3 remaining neutral.

The question that clause 31 do stand part of the Bill was then put to vote and carried.

The clause was added to the Bill

Clauses 32 to 38.

The question that clauses 32 to 38 do stand part of the Bill was put to vote and carried.

The clauses were added to the Bill.

Clause 39.

Mr. K. P. Nilakanta Pillai : Sir, the amendment standing in my name is amendment No. 29 incorporate the amendment Clause 14 of the existing Regulation. My purpose is to delete the

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[Mr. K. P. Nilakanta Pillai.]

existing clause and to retain the clause in the existing Regulation. Sir, there is no need to advance any elaborate argument, after knowing the fate of very important amendments moved to-day. It is well-known that the reserve fund cannot be reduced in any way. It is in direct contradiction to all principles of banking and economics. I shall quote the view of Mr. Ramdas Pantulu on this subject.

"The change made in the existing law by the bill is opposed to the best interests of the movement. This change is inexplicable in the face of the Devadar Committee's Statement that the existence of the reserve fund is above all one of the main source of financial stability of the society. The Madras act may be followed in this matter."

Sir, a similar clause is not found in the Bombay Act. If the provision in the Madras Act is accepted, then there would not have been any harm. When I moved several amendments, I was told that those clauses were taken from the Madras Act or from the Bombay Act and cannot therefore be a red rag to me. Now, I am just moving this amendment to retain the existing provision in the present Regulation and I hope it will not form a red rag to the Law Member.

Mr. M. P. Madhavan Pillai: I second it.

Mr. M. Govinda Pillai: Sir, I oppose the amendment. In doing so, I may first of all refer to the very resolution passed by the conference held under the presidency of Mr. Ramdas Pantulu at Trivandrum under the auspices of the Central Co-operative Bank. The resolution states :

This conference resolves that the rules under the existing Regulation relating to reserve fund, should be maintained and that out of the reserve fund, a loan may be given to a society for a specific purpose like the construction of a building or the acquisition of real property, with the approval of the Registrar. Such buildings and properties shall not be charged or encumbered except for such loans. The interest charged on such loans shall not exceed one per cent. above the rate of interest paid on the reserve fund by the financing bank.

That very conference accepted the principle that a portion of the reserve fund might be utilised for such purposes. The intention of the provision in the Bill is not to utilise the entire reserve fund but only a portion of it. I may also inform the House that, in Mysore, it has been the practice all these 20 or 30 years to utilise a portion of the reserve fund. The rule in Mysore runs as follows :

" With the previous sanction of the Registrar the reserve fund of a society may be utilised as working capital of that society or may

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be utilised for the purchase or leasing out of land or in the construction or acquisition of buildings or in such other manner as may be necessary in the conduct of business."

This is no novel provision in this Bill.

Mr. M. N. Paramesvaran Pillai: Is there any principle that in the case of societies with limited liability this principle should be reversed?

Mr. M. Govinda Pillai: I do not agree to that suggestion. The one embodied in the Bill is the accepted principle here and elsewhere, and that is working satisfactorily.

Mr. M. N. Paramesvaran Pillai: Is there not a rule to afford protection to societies having limited liability?

Mr. M. Govinda Pillai: Yes.

Mr. M. N. Paramesvaran Pillai: Then, why not the principle be accepted in general?

Mr. M. Govinda Pillai: I do not agree to that suggestion.

I am at the point whether there is propriety in the utilisation of a portion of the reserve fund.

Mr. M. N. Paramesvaran Pillai: May I know what is the basis on which that percentage was fixed?

Mr. M. Govinda Pillai: We have followed the Government of India Act.

Mr. M. N. Paramesvaran Pillai: What is the special reason for our copying that provision?

Mr M. Govinda Pillai: I was not here at the time that legislation was drafted.

My point is whether there is justification in the utilisation of a portion of the reserve fund for purposes contemplated in this amendment. That has been the practice here, but it was declared illegal only very recently. During all these 20 years it was the practice of successive Registrars to permit loans being taken, on the security of the reserve fund, for the construction of bulldings, etc. Such a practice has been in vogue till now. This practice was objected to by one of the registered societies in the land. and the Government rightly advised the Registrar not to proceed with that practice here after. It was consistently with the practice that was followed here and also with that pursued in Mysore, that that policy was adopted. Now, the Government have advised the Registrar not to proceed in that direction. Mr. Calvert, one of the eminent co-operators and a most successful Registrar in the Punjab bas justified that practice. I have not come across a single co-operator who has not justified or advocated the continuance of this practice.

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Mr. K. P. Nilakanta Pillai: May I know from the member what is the opinion of Mr. Darling in this matter ?

Mr. M. Govinda Pillai: At the recent Conference which was convened at Delhi, it was advocated by Mr. Darling that a portion of the reserve fund might very well be utilised for land acquisition and building purposes. For these reasons, I object to the amendment.

Mr. V. S Arumukham Pillai: Has not the Devadhar Committee stated that, for the financial stability of co-operative societies, the existence of a reserve fund was highly essential?

Mr. M. Govinda Pillai: That practice is still followed. Only a portion of the money is utilised for building purposes. All that I say is that a portion of the reserve fund may be utilised for special purposes that conduce to the good of the society.

Mr. N. Ramakrishna Pillai: May I know whether there is any justification for the proposed reduction of the reserve fund from one-half to one-fourth?

Mr. M. Govinda Pillai: Such a reduction is adopted else where, and I do not think that any great harm will ensue by that reduction.

The amendment number 29 was then put to the vote of the House and lost.

The question that clause 39 do stand part of the Bill was put to vote and carried.

The clause was added to the Bill.

Clauses 40 to 52.

The question that clauses 40 to 52 inclusive do stand part of the Bill was then put to vote and carried.

The clauses were added to the Bill.

Clause 53

Mr. N. Ramakrishna Pillai: I move the following amendment:

Delete the rest of the clause after the words "they shall be" in line 3 and substitute therefor the following:

> "entrusted to the Travancore Co-operative institute, Trivandrum be devoted to co-operative education and propaganda".

There is an elaborate provision made for the utilisation of surplus assets of a society. Instead of doing that my suggestion is that the surplus assets may be handed over to the Co-operative Institute which is responsible for the education and training of the co-operators. The Report of the Devadhar Committee also says that the Co-operative Institute is a very important institution and that it must be entrusted with the discharge of educating and training the co-operators. Hence I propose that the surplus assets may be entrusted with the institute.

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Mr. M. Govindan (*Nominated*) : I second it.

Mr. M. Govinda Pillai: I object to that, on practical considerations. I may inform the House that the Travancore Co-operative Institute is not functioning satisfactorily and efficiently. It may require some time before the institute is capable of functioning in the manner contemplated in the amendment. I may not be surprised even if the name of the institute is changed after the reorganisation of the several unions. When the institute is reorganised as suggested by the Devadhar Committee, the Registrar will not fail to consult that body or even to consult the members of the Advisory Board, that is contemplated to be appointed, in connection with the utilisation of surplus assets.

Mr. M. N. Paramesvaran Pillai : Even with the provision as it is, is there any objection for the Registrar consulting that body?

Mr. M. Govinda Pillai: There is nothing to prevent the Registrar from entrusting the surplus money, the whole or part of it, to the institute. Therefore I would suggest that, until the institute is efficiently reorganised and until that body becomes a really efficient institution working in the interests of co-operation, this amendment need not be accepted.

The amendment was put to vote and lost.

The question that clause 53 do stand part of the Bill was then put to vote and carried.

The clause was added to the Bill.

Clause 54.

Mr. N. Ramakrishna Pillai: I move that clause 54 be deleted. It is an important innovation in the present Bill that we have made provision for surcharges and attachments. The clause reads thus:

"(1) Where in the course of an audit under Section 22 or an inquiry under Section 43 or an inspection under Section 44 or the winding up of a society, it appears that any person who has taken part in the organisation or management of the society or any past or present officer of the society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society, the Registrar may, of his own motion or on the application of the Committee or liquidator or of any creditor or contributory, examine into the conduct of such person or officer and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in respect of the misappropriation, fradulent retainer or breach of trust as the Registrar thinks just".

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[Mr. N. Ramakrishna Pillai]

This is an extraordinary power conferred on a single individual. There is no need for it. This matter could very well be dealt by ordinary courts. By conferring such powers on a single individual the protection vested in ordinary courts is ousted. The fact whether a society has fraudulently retained money or not is a matter that could be investigated by ordinary courts. The ordinary law is enough to investigate that point. Therefore there is no need to invest the Registrar with arbitrary powers. Further it is stated that the Registrar's authority is final. That means, for practical purposes, his decision will be considered as the final authority. It is open to the Registrar to punish any individual without reference to anybody. And there is no appeal against the decision. In this sense the power that is sought to be conferred is very extraordinary. Unless there is any need for it, there is no justification for enacting that provision.

Mr. K. Madhavan Pillai: I second it.

Mr. Kayalam Paramesvaran Pillai: I oppose the amendment. If it is the opinion of the member that this is a very extraordinary provision I may tell the member that it has been necessitated by extraordinary circumstances. It has been noticed here that the co-operative societies, at least many of them are, being run by presidents and secretaries who mismanage the affairs of the society. The management is not honest to the society. To be plain the moneys of the society go into their private pockets and they never come out. If a civil suit is launched upon that will unnecessarily protract the proceedings in respect of realisation of money. Therefore it is that extraordinary powers are proposed to be conferred upon the Registrar.

Mr. Ramakrishna Pillai is wrong in saying that the jurisdiction of civil courts is ousted. Sub-clause 2 will clear that point. If any person is aggrieved he has only to appeal to the District Court. But, in this matter when we are discussing about the co-operative societies I will ask the plain question to Mr. Ramakrishna Pillai in whose interests he is pleading. Is it in the interests of the office bearers of the society; the secretary, the managing committee members or the president, or of the society? I appeal to this House to consider that the society must be saved from these dishonest persons and that there should be powers to protect the society.

Mr. V. S. Arumukham Pillai: I support the amendment. The learned Law Member wants this provision to be included on account of the extraordinary circumstances brought about in some of the societies by mismanagement. It is true that in many

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primary societies and taluk banks there is a lot of confusion and complication arising on account of the fact that the managers and secretaries commit fraud. (Mr. Kayalam Parameswaran Pillai, *hear, hear*). But my point is this. Is it justifiable on the part of the Law Member to invset the Registrar with such extraordinary powers on account of confusion arising in certain societies ? My submission is that investing the Registrar with such powers is crushing the movement altogether. The question before us is whether the co-operative movement should prosper or not. If the Registrar is to be invested with extraordinary powers that means that the essence of co-operation *viz.*, the democratic principle, is to be done away with. In order to protect certain societies we are killing the principle altogether. Therefore my submission is that if there are such extraordinary circumstances and situations in certain places then we have got criminal courts and other remedies. It is wholly unjustifiable on the part of the learned Law Member to invest such extraordinary powers upon the Registrar. As I said just a little while ago, the fundamental principle of co-operation is based on democracy. Since the movement depends entirely upon true national workers and missionary zeal and enterprise, if the officers are invested with such extraordinary powers I do not think that real workers of zeal and enterprise will co-operate with officers who are simply filled with false dignity. It will not be conducive to the success of the movement. I seriously apprehend whether real and national workers will co-operate with the officers of the Co-operative Department; and their help is very essential to the success of the movement. Therefore, the justification of the Law Member to invest the Registrar with such extraordinary powers on the ground that certain societies are not working properly is baseless. Therefore I support the amendment and I appeal to the honourable members to delete the clause.

Mr. M. Govinda Pillai : In opposing the amendment I have only to reiterate what I have said and also inform the House that such a provision has been in existence in Bombay, Mysore, and Madras for the last several years, and that the movement in those places has not been crushed or killed ; nor has it deterred or discouraged any true or national worker from working in the field of co-operation for the public welfare.

Mr. V. S. Arumukham Pillai : May I know whether, in the recent conference held at Trivandrum, this matter came up for discussion and the unanimous opinion was that this provision should be deleted from the Bill ?

Mr. M. Govinda Pillai : I may inform the House that I am alive to that resolution. But at the same time, I may add that

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[Mr. M. Govinda Pillai.]

there were several other conferences, more representative in character, where this provision has been accepted and approved.

Mr. V. S. Arumukham Pillai: I am referring to the Trivandrum Conference.

Mr. M. Govinda Pillai: I am referring to the other and more representative conferences. (*Laughter.*)

The motion that clause 54 be deleted was then put to vote and lost,

The question that clause 54 do stand part of the Bill was put to vote and carried.

The clause was added to the Bill.

Clause 55.

The question that clause 55 do form part of the Bill was then put to vote and carried.

The clause was added to the Bill,

Clause 56.

Mr. K. P. Nilakanta Pillai: I move that the existing clause 56 be deleted and the following substituted :—

> "If any dispute touching the business of a society arises between members or past members of the society or persons claiming through a member or past member or between members or past members or persons so claiming and any officer, agent or servant of the society or between the society or its committee, and any officer, agent member or servant of the society, it shall be referred to the Registrar for decision by himself or his nominee, or if either of the parties so desires, to arbitration of three arbitrators who shall be the Registrar or his nominee and two persons of whom one shall be nominated by each of the parties concerned."

I have adopted this clause from the Bombay Act without any change whatever. I do not think there can be any objection on the part of either the Registrar or the Law Member with regard to this clause. Both the clauses are more or less the same but with this difference. The existing clause says that the Registrar or his nominee or any officer empowered by Government in this behalf may decide the whole question and his decision shall be final. But in my amendment, following the Bombay Act, the following sentence is added :—"and two persons of whom one shall be nominated by each of the parties concerned". In the case of a dispute, the Registrar or any other nominee of his may go into the question and decide one way or the other. But in view of the other extraordinary powers which the officers of the Co operative Department are proposed to be invested with under the provisions of this Bill, we can more or less understand the plight of a party where he has a real grievance in the matter. My amendment will enable the

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aggrieved party, without prejudice to the other parties, to seek his remedy. Of course the aggrieved party has also to nominate one person.

Mr. M. Govinda Pillai: May I inform the member that such a procedure is permitted under the existing rules also?

Mr. K. P. Nilakanta Pillai: But so far as this Bill is concerned, this absence is conspicuous. Unless it is done under the rule-making powers of Government, there is no provision for that. Why should the Registrar feel shy if under the rule-making powers, this is going to be done? I do not find that there can be any objection on the part of the Law Member to accept this amendment. With these words, I move the amendment for the acceptance of the House.

Mr. K. Madhavan Pillai: I second it.

Mr. Kayalam Paramesvaran Pillai: I oppose the amendment. It will be noticed from a careful reading of the clause that provision is made for any dispute being referred to an arbitration consisting of one or more arbitrators. It can be seen from sub-clause 2 (c) which reads thus:—

> "The Registrar may, on receipt of such reference, subject to such rules as may be prescribed, refer it for disposal to an arbitrator or arbitrators".

The question whether it should be by one or by two arbitrators is a matter of detail. One practical difficulty in appointing many nominees, as Mr. Nilakanta Pillai wants, is this. Suppose one of the parties does not appoint an arbitrator. Suppose one party nominates an arbitrator and the Registrar also nominates; but the other party does not nominate. Then the whole procedure will become infructuous. One recalcitrant man can bring the whole procedure to nought.

Mr. K. P. Nilakanta Pillai: In the ordinary courts what is the procedure if a party does not appoint a Vakil?

Mr. Kayalam Paramesvaran Pillai: The court will hear the other side and come to a decision. But here where are the arbitrators to come from? Suppose one of the parties does not nominate. The body of Judges will not be complete; that is the difficulty. What will happen then? Therefore, the provision in the clause will remain as it is. If any of the parties wants the matter to be decided by arbitration, that provision will be applied to him. He will be given the benefit of an arbitration. But the details are not stated in the clause. That will be decided by the rules.

The amendment was put to the vote of the House and lost.

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[Mr. Kayalam Parameswaran Pillai.]

The question that clause 56 do form part of the Bill was then put to vote and carried.

The clause was added to the Bill.

Clauses 57 to 67.

The question that clauses 57 to 67 do form part of the Bill was then put and carried.

The clauses were added to the Bill.

Clause 68.

The question that clause 68 do stand part of the Bill was put to the vote of the House and carried.

Clause 68 was added to the Bill.

Clause 69.

Mr. N. Ramakrishna Pillai: I beg to move that clause 69 may be deleted.

There is no reason why the Companies Regulation alone should be mentioned here. I do not think it is the usual practice to refer to the provisions of other Regulations like this. I therefore move the amendment for the acceptance of the House.

Mr. M. Govinda Pillai: Sir, such a provision has been made in similar exactments and is continued in the existing Regulation also. Here it is inserted not because of any aversion to the Companies Regulation but with a view to avert legal complications by reference to the provisions of the Companies Regulation. As a matter of fact, lawyers who are in the managing committees of societies and banks, invariably invoke the aid of the provisions of the Companies Regulation whenever any controversy arises between the department and the institutions concerned. That brings about serious confusions and complicated litigation, which is a source of great danger to the movement. Unless some such safeguard is made in this Bill the tendency to invoke the aid of Company Law to interpret principles of Co-operative law and practice will become irresistible.

With these words, I oppose the amendment.

The amendment was put to the vote of the House and lost.

The question that clause 69 do stand part of the Bill was put and carried.

The clause was added to the Bill.

Clauses 70 to 73.

The question that clauses 70 to 73 do stand part of the bill was put to the vote of the House and carried.

The clauses were added to the Bill.

Clause 74.

Mr. N. Ramakrishna Pillai: I beg to move that in clause 74 as sub-clause (2) (*j*) the expression "prescribe rules for

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the constitution of an Advisory Board to help the Registrar" may be added. In clause 47 sub-clause (4) there is a reference to an advisory board to help the Registrar. But no provision is made for the rules constituting an advisory board I move, therefore that this amendment may be accepted.

Mr. Kayalam Paramesvaran Pillai: I oppose the amendment. But the honourable member is quite correct in saying that in clause 47 it is provided that an advisory board may be prescribed. The provision is this :—

> "Before taking action under sub-section (1) in respect of any society, the Registrar shall in the prescribed manner consult such body of persons, if any, as may be prescribed by Our Government, in that behalf, regarding the action and regarding such other matters as may be prescribed".

It will be seen, from the definition clause that "prescribed" means rules prescribed by Government under this Regulation. It will also be seen that clause 74 (*e e.*) enables the making of rules to "provide for all matters expressly required or allowed by this Regulation to be prescribed as Rules". So then the requisite provision is there already.

The amendment was put to the vote of the House and lost.

The question that clause 74 do stand part of the Bill was put to the vote of the House and carried.

The clause was added to the Bill.

The question that clause 75 do stand part of the Bill was put to the vote of the House and carried.

The clause was added to the Bill.

PREAMBLE AND TITLE.

The question that the Preamble and the Title do stand part of the Bill was then put to the vote of the House and carried.

The Preamble and Title were added to the Bill.

Mr. Kayalam Paramesvaran Pillai: I now beg to move that the Travancore Co-operative Societies Bill be passed.

Mr. M. Govinda Pillai: I second it.

The motion was carried.

THE TRAVANCORE TRADE UNIONS BILL.

Mr. Kayalam Paramesvaran Pillai: I beg to move that the Travancore Trade Unions Bill, as passed by the Assembly, be taken up for consideration.

Mr. M. Govinda Pillai: I second it.

The motion was put to the vote of the House and carried.

Clauses 1 to 13.

The question that clauses 1 to 13 do stand part of the Bill was put to the vote of the House and carried.

The clauses were added to the Bill.

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